United Nations A/HRC/31/NGO/111

General Assembly

Distr.: General
19 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Iranian Elite Research Center, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02543(E)

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The need for checking Mena disaster by the international organizations of human rights

The tragic disaster happened in Mena, Mecca, occurred due to incompetence of the Saudi Arabia government in managing Hajj is still at the center of public attention. Mena disaster occurred on September 24, 2015 in Mena region, Mecca, Saudi Arabia. The pilgrims throng caused the death of at least 2236 people. The exact toll of victims has not been officially announced. Based on the total death toll reported by different countries, the current number of victims is 7700 people. The Saudi Government, as the organizer of spiritual rituals of Hajj, is blamed in this tragedy and should be accountable in this regard; this matter has not yet been checked and hence, it requires the involvement of international organizations of human rights.

According to the International Law, and specifically the Rights of Foreigners and the International Liability Law, the Saudi government is the main responsible for violation of the fundamental rights of victims and in Mena disaster since under the customary international law, any internationally wrongful act of a country or breach of an international obligation is incurred the international responsibility, which is studying in the following.

Concerning the existing rules on legal obligations reveals violation authentication or lack of violation authentication by the Saudi government. In accordance with the customary and conventional international law, the countries are responsible for the safety of nationals of sending countries (the countries that sends its nationals to the host country under different titles, including tourist, pilgrim, etc.). According to Article 5 of the Convention on Consular Relations 1963, in the part of "Console" and in paragraph "a" of consular tasks, "protecting the interests of sending country and its nationals- both natural and legal persons- in the territory of the host government" is emphasized.

In fact, the most important right for foreigners in a country is having absolute security of life and conditional security of property and in case of inability of the host government, the international community should be asked for help to provide this security. Moreover, according to Conventions 1961 and 1963, the governments are obliged to protect the foreigners in their territories, and they can enjoy their basic rights. Besides, there are some bilateral agreements between Iran and Saudi Arabia, including 1308 Friendship Treaty, and upon Article 4 of this treaty, the Saudi government is obliged to protect the Iranian pilgrims' security of life.

According to eyewitnesses' accounts and interviews with many who attended in Hajj rituals: "the police closed all inbound and outbound routes to the place where the pilgrims perform stoning of the devil and only one route was left open." (The interview of a Libyan pilgrim with Daily Mail), "the police at the scene were inexperienced as they even did not know the ways, roads, and the places around the area" (the interview of an Egyptian pilgrim with Daily Mail), "Shiite pilgrims from Iran, Iraq, Afghanistan, and some other countries initially entered and then, the pilgrims from Africa came quickly. At the same time, the channel outlet door was closed by Saudi police on the pretext of passing a Saudi prince and the rest of the story" (the interview of an Iranian pilgrim with Mehr News Agency).

Also, the Saudi government did not allow the rescue forces by other countries to enter until 16:30, and such delay, in itself, caused many the death of many people and due to very limited facilities and large population, the Saudi government was not able to control the situation and bring relief to victims. In this context, the Saudi government certainly committed an international violation.

The Saudi government and officials negligence in protecting the interests of the foreigners in Hajj, "which was a responsibility for that country" and also "neglecting to report deaths in that area to the consular post" have provided the ground for international violation by this country and have confirmed the international responsibility of this country in protecting the foreigners.

Moreover, the right of health is among secondary human rights, which the Saudi government has refused it. It also has mentioned in many interviews that "some victims in this disaster died due to lack of drinking water and access to health care services". The Saudi government could have reached drinking water or any other drinks to pilgrims in any way (e.g. using helicopters) while providing public health.

In general and legally, the Saudi government is required to provide detailed reports from Mena disaster; a matter that the government has refused until now. The Saudi government entrusted the non-state organizations with the management of Hajj rituals and Jamarat (stoning of the devil). According to international right, if, under the law, performing some governmental duties is entrusted to non-state organizations, the wrongful act of non-state part will be attributed to the assigner government. Human rights obligations can contribute to legal pursuit of Mena disaster; in human rights obligations, the right to health and health care, the right to consular access, the right to prohibition of discrimination, and the right to life, among others, are considered as the most important parts. Based on positive obligations, where the Saudi government considered or must have considered the real danger to the lives of people, but it failed to adopt reasonable and appropriate measures by which it could have prevented the disaster, it has violated the principle of right to life.

Iranian Elite Research Center (IREC) asks the international and human rights organizations to be involved in this issue and pursue different dimensions of this disaster and hence, prevent the reoccurrence of such disasters.